

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.388 OF 2006

DATED: 9th AUGUST, 2006.

Between:

Rajaka Seva (Dobhi) Sangam, Godavarikhani,
Rep. by its President Chakali Rayalingu ... Petitioner

And

1. The Estate Officer, Singareni Collieries Company
Limited, Godavarikhani, Karimnagar District
And 3 others. .. Respondents

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ORDER :

The petitioner claims to be a society registered under the A.P. Co-operative Societies Act, 1964. The petitioner society filed O.S.No.12 of 2002 in the Court of Junior Civil Judge, Godavarikhani for perpetual injunction restraining the respondents 1 and 2 herein from interfering with the cutting of bushes and trees over the Dhobi Ghat situated in Godavarikhani. The Commissioner, Ramagundam Municipality, the 3rd respondent herein, was impleaded as 3rd defendant to the suit. All the defendants were set ex parte and the suit was decreed ex parte as prayed for on 11-6-2003. Subsequently, the petitioner society made a representation dated 26-8-2004 to the 3rd respondent Municipality for allotment of 20 guntas of land situated from the main road to Dhobi Ghat in terms of the judgment and decree in O.S.No.12 of 2002 so as to enable the members of the petitioner society to erect their huts. On the basis of the said representation, the 3rd respondent Municipality addressed a letter dated 4-5-2005 to the 1st respondent requesting to depute the concerned survey officers for peg marking and allotment of the said land to the petitioner society. Alleging that the respondents 1 and 2 did not respond to the said request made by the 3rd respondent Municipality, this writ petition has been filed seeking a Writ of Mandamus directing the 2nd respondent to act in accordance with the proceedings of the 3rd respondent dated 4-5-2005 and to allot 20 guntas of land situated in Sy.No.709 of

Godavarikhani.

On behalf of the respondents 1 and 2, a counter-affidavit has been filed stating that the land in Sy.No.709 was purchased by the respondent in the year 1963 and that the 2nd respondent is the absolute owner of the same. It is also stated that in O.S.No.12 of 2002 an ex parte decree was obtained by the petitioner society. As a matter of fact, no bushes were existing in the suit schedule land as pleaded by the petitioners and the alleged interference by the respondents 1 and 2 was also false.

In the counter-affidavit filed by the 3rd respondent Municipality also, the fact that the land in Sy.No.709 belongs to the respondents 1 and 2 has not been disputed. It was further stated that the petitioner society has been trying to get possession of the said land from the respondents 1 and 2.

I have heard the learned Counsel for the petitioner as well as the learned Counsel appearing for the respondents.

The learned Counsel for the petitioner though did not dispute the fact that the land in question belongs to the respondents 1 and 2, contended that by virtue of the decree in O.S.No.12 of 2002, the respondents ought to have deputed the survey officer for peg marking the land.

On a careful consideration of the material available on record, I do not find any substance in any of the contentions raised by the petitioner. Admittedly, the land belongs to the respondents 1 and 2 and absolutely no material has been placed before this Court to show that the petitioner society acquired any right in respect of the said land. The decree passed by the Court of Junior Civil Judge, Godavarikhani in O.S.No.12 of 2002 is only a decree for perpetual injunction merely restraining the 1st respondent from interfering with the cutting of the trees from the main road to Dhobi Ghat, which does not confer title on the petitioner society.

In the absence of any material to show that the petitioner society acquired title over the Sy.No.709 to the extent of 20 guntas claimed by them, no Mandamus can be issued compelling the respondents 1 and 2 to depute the survey officer as requested by the 3rd respondent Municipality.

The Writ Petition is misconceived and without any substance and accordingly the same is dismissed. No costs.

G. ROHINI, J.

Dt. 9-8-2006

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